90-392

Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1990

FRANCIS M. GANZ,

Petitioner,

vs.

JAMES B. ZAGEL, Director, State of Illinois, Department of State Police,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE APPELLATE COURT OF ILLINOIS, FIRST JUDICIAL DISTRICT

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QUESTION PRESENTED FOR REVIEW

Must there be a long standing custom and practice for the change of field training officers if a conflict exists between a probationary police officer trainee and a field training officer, which change is required by a field training manual, in order to constitute a protected property right under the due process clause of the Fourteenth Amendment of the United States Constitution?

TABLE OF CONTENTS

	PAGE
QUESTION PRESENTED FOR REVIEW	i
TABLE OF AUTHORITIES	iii
OPINIONS BELOW	1
JURISDICTION	2
CONSTITUTIONAL PROVISION INVOLVED	3
STATEMENT OF THE CASE	3
REASONS FOR GRANTING THE WRIT	6
A LONG STANDING CUSTOM AND PRACTICE FOR THE CHANGE OF FIELD TRAINING OFFICERS IF A CONFLICT EXISTS BETWEEN A PROBATIONARY POLICE OFFICER TRAINEE AND A FIELD TRAINING OFFICER, WHICH IS REQUIRED BY THE FIELD TRAINNG MANUAL, IS NOT NECESSARY TO CONSTITUTE A PROTECTED RIGHT UNDER THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION ...	6
CONCLUSION	11
APPENDIX	App. 1

TABLE OF AUTHORITIES

Cases	PAGE
Begg v. Moffitt, 555 F.Supp. 1344 (1983)	6, 7, 9
Duldulao v. St. Mary of Nazareth Hospital Center, 136 Ill.App.3d 763 (1985)	7, 8
Hermes v. Heim, 511 F.Supp. 123 (N.D. Ill. 1980)	9
Jungles v. Pierce, 825 F.2d 1127 (7th Cir. 1987)	10
Lewis v. Kenneth Hays, et al., 152 Ill.App.3d 1020 (1987)	11
Pembauer v. Cincinnati, 475 U.S. 469, 89 L.Ed.2d 452, 106 S.Ct. 1292 (1986)	9
Sullivan v. Board of Fire and Police Commissioners of the Village of Lisle, 103 Ill.App.3d 167 (1981)	9, 10
Webb v. City of Chester, Illinois, 813 F.2d 824 (7th Cir. 1987)	10

Other Authorities	
U.S. Const., Fourteenth Amendment	*passim*
Illinois Revised Statutes, Chap. 24, sec. 2.1-15	9

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OPINIONS BELOW

On May 18, 1988, the Circuit Court of Cook County, Illinois, entered respondent's motion to dismiss petitioner's amended complaint for declaratory judgment.

In that amended complaint for declaratory judgment, the petitioner alleged that the employer's field training manual providing a change of training officers when a conflict existed between a trainee and a training officer constituted a property right.

The Circuit Court decision affirming the dismissal of the amended complaint for declaratory judgment is reprinted herein at App. 10.

On December 4, 1989, the Appellate Court of Illinois, First Division, affirmed the decision of the Circuit Court dismissing the petitioner's amended complaint for declaratory judgment. (The opinion of the Illinois Appellate Court is reprinted herein at App. 1-8.) On February 13, 1990, the Illinois Appellate Court denied petitioner's petition for rehearing. (The denial order of the Illinois Appellate Court is reprinted at App. 9.)

On June 1, 1990, the Illinois Supreme Court denied petitioner's petition for leave to appeal. (The denial order of the Illinois Supreme Court of June 1, 1990, is reprinted herein at App. 11.)

JURISDICTION

1. The federal question that the petitioner was deprived of a property right to have a field training officer changed because of a conflict was raised in the Amended Complaint for Declaratory Judgment and memoranda in connection with the Motion to Dismiss; and subsequently in the petitioner's briefs to the Illinois Appellate Court and in the Petition for Leave of Appeal to the Supreme Court of the State of Illinois.

2. The petition for writ of certiorari was filed within ninety days after the entry of the Judgment by the Supreme Court of Illinois on June 1, 1990.

CONSTITUTIONAL PROVISION INVOLVED

Fourteenth Amendment: Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

On December 15, 1985, the petitioner was hired by the respondent as a probationary state police trooper.

On April 14, 1986, after 16 weeks at the Springfield State Police Academy, the petitioner graduated from the said Police Academy and was assigned to police duties at District 3 and subsequently was transferred to District 4 (Crestwood, Illinois).

During the course of his probationary period, the petitioner was rated from good to excellent by state police troopers holding permanent rank, Alan Patterson, Donald Lang, and James Vandenbergh.

During the course of his training, the petitioner was assigned to field training officer, Eileen Daly, who was also a probationary police officer.

While being assigned to probationary trooper Eileen Daly, the petitioner experienced a personality conflict, with the result that he requested a change of field training officers.

On May 31, 1986, the petitioner directed an office memorandum to Master Sergeant K. Hall concerning his personality conflict with field training officer Daly.

At the time of petitioner's hiring, the Department of State Police had a field training and evaluation program manual which was an integral part of his employment requirements, imposing obligations on both parties, and specifically providing at pages 22 and 23 as follows:

> The FTO Supervisor must monitor the overall training and evaluation of probationary troopers to ensure that the Field Training Officer maintains objectivity throughout his/her contact with the probationary trooper. If a personality conflict or a loss of objectivity is observed, the FTO Supervisor shall immediately counsel the FTO. If necessary, the FTO Supervisor should make appropriate changes in assignment, rotating the probationary trooper to another Field Training Officer. The decision to rotate the probationary trooper to another FTO must be fully documented and both parties informed of the reasons for the decision in order to minimize misunderstanding and possible ill feelings.

The custom and practice of the respondent was to grant such field training officer changes pursuant to the rule in that the custom and practice was verbally stated to the plaintiff by Master Sergeant K. Hall at one of the academy sessions.

The custom and practice as stated was implemented for probationary officers Joseph Mata, Bill Heintz, Jack Garcia, Edward Gonzalez, and Dennis Joyner.

The custom and practice as described impose an obligation upon the department pursuant to the principal goal as expressed at page 24 from that manual, entitled The Evaluation Process:

> The principal goal of the Field Training Program is to provide the Department and the people it serves with a police officer who can competently and safely perform the duties of a solo patrol officer. This goal may be attained by means of placing the probationary trooper with a well trained and competent Field Training Officer. The FTO must develop a good relationship with the probationary trooper to ensure that he/she can teach, counsel and create a change in the behavior or performance of the probationary trooper if there is a need.

Because of the conflict between Eileen Daly and the petitioner, the petitioner requested Sergeant Wayne Winterberg, a state police trooper, under the command of the respondent, to assign another field training officer pursuant to the above stated rule.

State Trooper, holding permanent rank, James Vandenbergh supported the petitioner's request for a change of field training officer.

Sergeant Wayne Winterberg and Captain Ladd Furge refused to grant petitioner's request for a change of field training officers.

Since the change of field training officers was refused by Sergeant Wayne Winterberg, and such refusal was not overruled by Captain Ladd Furge, the petitioner was forced to resign on June 5, 1986.

On July 14, 1986, the petitioner requested that his resignation be rescinded; on October 31, 1986, the respondent refused to rescind the resignation.

REASONS FOR GRANTING THE WRIT

A LONG STANDING CUSTOM AND PRACTICE FOR THE CHANGE OF FIELD TRAINING OFFICERS IF A CONFLICT EXISTS BETWEEN A PROBATIONARY POLICE OFFICER TRAINEE AND A FIELD TRAINING OFFICER, WHICH IS REQUIRED BY THE FIELD TRAINNG MANUAL, IS NOT NECESSARY TO CONSTITUTE A PROTECTED RIGHT UNDER THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

In conjunction with the field training manual that is furnished to probationary Illinois police state troopers by the respondent, the field training manual provides:

> "The FTO Supervisor must monitor the overall training and evaluation of probationary troopers to ensure that the Field Training Officer maintains objectivity throughout his/her contact with the probationary trooper. If a personality conflict or a loss of objectivity is observed, the FTO Supervisor shall immediately counsel the FTO. If necessary, the FTO Supervisor should make appropriate changes in assignment, rotating the probationary trooper to another Field Training Officer. The decision to rotate the probationary trooper to another FTO must be fully documented and both parties informed of the reasons for the decision in order to minimize misunderstanding and possible ill feelings."

Concerning that provision, the petitioner had relied throughout the proceedings upon *Begg v. Moffitt*, 555 F.Supp. 1344 (1983), wherein at 1348, the Court states as follows:

> "[P]roperty" interests subject to procedural due process protection are not limited by a few rigid, technical forms. Rather "property" denotes a broad range of

> interests that are secured by "existing rules or understandings". A person's interest in a benefit is a "property" interest for due process purposes if there are such rules or mutually explicit understandings that support his claim of entitlement to the benefit and that he may invoke at a hearing.

Based upon the above analysis of property rights, in the *Begg* case, the Court found that a standing custom and practice of permitting police officers to seek outside employment created a property interest.

It is the contention of the petitioner that a property right had been established requiring field training officer changes for probationary trainees when a conflict arose between them pursuant to the cited field training manual language herein.

The basis for such contention is that handbook manuals have been recognized as creating property rights in *Duldulao v. St. Mary of Nazareth Hospital Center*, 136 Ill. App.3d 763 (1985), where a First District Appellate Court decision holds that a policy manual creates that type of right.

As a consequence, it certainly was necessary for the Field Training Officer Supervisor to make appropriate changes in assignment based upon petitioner's written memorandum of May 31, 1986, addressed to Master Sergeant K. Hall detailing the petitioner's personality conflict with Eileen Daly, who was also a probationary police officer.

It was the custom and practice that probationary officers would be granted such a change, which was substantiated by changes of field training officers for probationary officers Joseph Mata, Bill Heintz, Jack Garcia, Edward Gonzalez, and Dennis Joyner.

Furthermore, it was the custom and practice to undertake such changes to fulfill the principal goal of the Field Training Program, to train personnel who could serve competently and safely and perform the duties of a solo patrol officer.

Further the field training manual required that field training officers develop a good relationship with the probationary trooper to ensure that he or she could teach, counsel and create a change in behavior or performance of the probationary officer if there be such a need.

In this instance, a change was required based upon the petitioner's personality conflict with his field training officer.

As a result, the petitioner has stated a property right based upon custom and practice and fully supported by the analysis of *Begg v. Moffitt.*

However, on page 6 of the Illinois Appellate Court opinion, although the Illinois Appellate Court had recognized the field training officer change policy contained mandatory language that "The FTO Supervisor must monitor the overall training and evaluation of probationary troopers to ensure that the Field Training Officer maintains objectivity throughout his/her contact with the probationary trooper", nevertheless the Illinois Appellate Court held that "If necessary, the FTO Supervisor should make appropriate changes in assignment, rotating the probationary trooper to another Field Training Officer", is language that is discretionary and not creating a property right.

Therefore, the Appellate Court ruled that *Duldulao v. St. Mary of Nazareth Hospital Center,* 136 Ill.App.3d 763 (1985) establishing that a manual can create a property right was not applicable because changing of the field training officer was discretionary and not mandatory.

In addition, the Illinois Appellate Court further ruled that probationary officers do not have property rights pursuant to *Sullivan v. Board of Fire and Police Commissioners of the Village of Lisle*, 103 Ill.App.3d 167 (1981).

By not applying *Begg v. Moffitt*, 555 F.Supp. 1344 (1983) to the discretionary portion of the field training officer manual, the Illinois Appellate Court refused to accept the petitioner's contention that the custom and practice was not only enunciated by Master Sergeant Hall, but was confirmed subsequently by changing of Field Training Officer Supervisors for five probationary officers prior to the petitioner's request.

The position of the Illinois Appellate Court was that these field training officer changes did not constitute a long standing custom and practice for the application of *Begg v. Moffitt.*

There is no question that a custom and practice can supersede state law as is evidenced in *Hermes v. Heim*, 511 F.Supp. 123 (N.D. Ill. 1980), wherein the Court recognized that custom and practice for rank order promotions could supersede Illinois state law that provides police promotions based upon choosing from the top three police candidates, Illinois Revised Statutes, Chap. 24, sec. 2.1-15.

By analogy, pursuant to *Hermes v. Heim*, 511 F.Supp. 123 (N.D. Ill. 1980), the custom and practice of changing field training officers for probationary trainees because of personal conflicts established a property right that would supersede the supervisor's discretion to undertake such a change as analyzed by the Illinois Appellate Court relative to the discretionary language as described in this Petition for Writ of Certiorari.

In *Pembauer v. Cincinnati*, 475 U.S. 469, 89 L.Ed.2d 452, 106 S.Ct. 1292 (1986), the Supreme Court of the United

States recognized that custom and practice can be established by a governmental action undertaken once or repeatedly.

Subsequent to the *Pembauer* decision, the United States Court of Appeals, Seventh Circuit, has recognized that a single decision by a governmental agency does constitute policy making without that action being repeated more than once; for example, in *Webb v. City of Chester, Illinois*, 813 F.2d 824 (7th Cir. 1987) at 829 the United States Court of Appeals discussed that a single decision to hire and immediately fire a police officer could constitute a custom and practice resulting in liability to the municipality.

Likewise, *Jungles v. Pierce*, 825 F.2d 1127 (7th Cir. 1987) at 1129 addressed itself to a single action undertaken by a governmental agency in terminating a fire and police commissioner, with such single action subjecting the municipality to liability.

In this instance, the petitioner contends that this Court should extend the legal principles as expressed in *Pembauer v. Cincinnati, Webb v. City of Chester, Illinois*, and *Jungles v. Pierce*, to employment hiring situations wherein a single act by a governmental agency can constitute custom and practice since there had been field training officer changes for five field trainees because of personal conflicts as required by the field training manual prior to petitioner's request.

At the same time, the Illinois Appellate Court's argument that probationary police officers are not entitled to property right considerations based upon *Sullivan v. Fire and Police Commissioners of the Village of Lisle*, 103 Ill. App.3d 167 (1981), is distinguishable, since *Sullivan* dealt with alleged substantive due process violation in a hiring process and did not concern itself with a custom and prac-

tice relating to field training officer changes for state trooper trainees pursuant to a field training officer manual that established a property right to such changes as analyzed in this Petition for Writ of Certiorari.

In fact, Illinois Appellate Courts have recognized that, although probationary police officers are at-will employees subject to dismissal without a hearing, nevertheless a property right to a hearing can be created by a rule to that effect as is illustrated in *Lewis v. Kenneth Hays, et al.*, 152 Ill.App.3d 1020 (1987) wherein the rule stated "By and with consent of commission after the chief submits written reasons for the termination".

Therefore, the petitioner as a probationary police officer had a property right to a field training officer change because of a conflict and that the denial of such a protected property right violated the due process clause of the Fourteenth Amendment of the United States Constitution.

CONCLUSION

For reasons enumerated herein, the Writ should be granted.

Respectfully submitted,

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APPENDIX

INDEX TO APPENDIX

	APP. PAGE
Opinion of the Appellate Court of Illinois, December 4, 1989	1
Order of the Appellate Court of Illinois Denying Petition for Rehearing, February 13, 1990	9
Order of the Circuit Court of Cook County Granting Defendant's Motion to Strike and Dismiss Plaintiff's Complaint, May 18, 1988	10
Order of the Supreme Court of Illinois Denying Leave to Appeal, June 1, 1990	11

Opinion of the Appellate Court of Illinois
First District, First Division
No. 1-88-1855—Filed December 4, 1989

FRANCIS M. GANZ,

Plaintiff-Appellant,

v.

JAMES B. ZAGEL, Director,
State of Illinois,
Department of State Police,

Defendant-Appellee.

Appeal from the Circuit Court of Cook County.
Honorable Albert Green, Judge Presiding.

JUSTICE CAMPBELL delivered the opinion of the court:

Plaintiff, Francis M. Ganz, appeals from the trial court's order dismissing his amended complaint for declaratory judgment filed against James B. Zagel, Director, State of Illinois, Department of State Police (the "Department"). Plaintiff, a former probationary state police trooper, had sought a declaration that he had a property right to a change of Field Training Officers ("FTO's"), a procedure set forth in the Department's Field Training Manual, and a declaration that his resignation from the Department should be rescinded. For the following reasons, the judgment of the trial court is affirmed.

The record indicates that on December 15, 1985, the Department hired plaintiff as a probationary state police

trooper. On April 4, 1986, after 16 weeks at the Springfield State Police Academy, plaintiff graduated and was assigned to field training. During field training, plaintiff initially received favorable ratings from three state police troopers. He was then assigned to Field Training Officer Eileen Daley. As a result of a personality conflict with FTO Daley, on May 31, 1986, plaintiff submitted a written request to Master/Sergeant Hall asking for a reassignment to a different FTO. The request was denied. Consequently, on June 5, 1986, plaintiff resigned from the Department. On July 14, 1986, plaintiff requested that his resignation be rescinded. The Department refused his request on October 31, 1986.

On March 30, 1987, plaintiff filed his complaint for declaratory judgment, requesting that: (1) the court declare that, pursuant to the Department's Field Training Manual, plaintiff had a property right to request a change in FTO's; (2) plaintiff's resignation be rescinded on the ground that it was coercive and involuntary as the result of the denial of his property right to change FTO's; (3) plaintiff be reinstated to the probationary rank of a state police trooper; and (4) the Department pay the plaintiff reasonable attorney fees and court costs. The trial court granted the Department's motion to dismiss for failure to state a cause of action without prejudice and, on October 9, 1987, plaintiff filed his amended complaint for declaratory judgment.

In his amended complaint, plaintiff added allegations that: (1) the Department's custom and practice to grant FTO changes had been verbally stated to him by Master/Sergeant Hall at one of the academy sessions; (2) the custom and practice had been implemented for five probationary officers; (3) the custom and practice together with the Field Training Program's principal goal impose

an obligation upon the Department; and (4) based upon the manual provisions and the custom and practice, plaintiff had a property right to such a change. The Department moved to dismiss plaintiff's amended complaint on the ground that he had no property right to request and to be granted a change in FTO's. The trial court granted the Department's motion, stating:

> "It is this Court's opinion that the provisions of the manual requiring a supervisor's discretion do not create a property right in this regard, nor has plaintiff effectively pleaded a case for a long established custom and practice within the Department. He names five officers, presumably part of his class, who were granted changes of their F.T.O.'s, their field training officers. This is not sufficient to create a property right in the Plaintiff.
>
> It is well established case law that a probationary police officer has no property right in his employment and I cite *Sullivan v. Bd. of Police Commissioners*, 103 Ill. App.3d 167.
>
> Accordingly this Court finds such an officer has no property right to challenge this Department's refusal to rescind his resignation.
>
> The duties of a police officer are demanding and this Court cannot presuppose upon the Department's discretion in determining how best to test the mettle of a probationary officer."

Plaintiff's timely appeal followed.

The sole issue on appeal is whether the Department's Field Training Manual created a property right in plaintiff which entitled him to a change in FTO's. Plaintiff argues that the policy set forth on pages 22 and 23 of the Department's Field Training Manual ("FTO Change Policy") plus the Department's custom and practice in implementing that policy created a property right entitling

him to a change in FTO's. The FTO Change Policy provided:

> "The FTO Supervisor must monitor the overall training and evaluation of probationary troopers to ensure that the Field Training Officer maintains objectivity throughout his/her contact with the probationary trooper. If a personality conflict or a loss of objectivity is observed, the FTO Supervisor shall immediately counsel the FTO. If necessary, the FTO Supervisor should make appropriate changes in assignment, rotating the probationary trooper to another Field Training Officer. The decision to rotate the probationary trooper to another FTO must be fully documented and both parties informed of the reasons for the decision in order to minimize misunderstanding and possible ill feelings."

Initially, plaintiff relies on *Begg v. Moffitt* (N.D.Ill. 1983), 555 F. Supp. 1344 for the definition of "property right." In *Begg*, plaintiff, a police officer, alleged, *inter alia*, that he had been denied the opportunity to engage in part-time, off-duty employment and had been denied pay increases in violation of the fourteenth amendment. Defendant moved to dismiss. In holding that plaintiff had alleged a constitutionally-protected property right, the *Begg* court found that: (1) plaintiff had alleged a long-standing custom and practice of permitting outside employment; and (2) mandatory language of the contract between plaintiff's union and the city provided for pay increases based on longevity, unless there was cause for denying the increase.

Plaintiff's reliance on *Begg* is misplaced for several reasons. First, plaintiff relies on part of the *Begg* court's definition of property interest and conveniently overlooks that part of the definition which does not support his position. Specifically, plaintiff focuses on the *Begg* court's

statement that if mutually explicit understandings exist that support a person's claim of entitlement to a benefit, that person's interest in the benefit is a property interest for due process reasons. Thus, plaintiff argues that because the FTO Change Policy was a mutually explicit understanding, he has a property interest. However, plaintiff overlooks the *Begg* court's further analysis that the standard for determining whether a property interest exists is one of cause and in order to assert a property interest, plaintiff must establish that he cannot lose the benefit except for cause. In *Begg*, the contract between plaintiff's union and the city met this standard by creating a legitimate expectation in the benefit with mandatory language such as "will" and "shall" and indicating that this benefit could not be denied except for cause.

In the present case, unlike in *Begg*, the FTO Change Policy contains both mandatory and discretionary language. The first two sentences and the last sentence are mandatory: "The FTO Supervisor must monitor the overall training and evaluation of probationary troopers to ensure that the Field Training Officer maintains objectivity throughout his/her contact with the probationary trooper. If a personality conflict or a loss of objectivity is observed, the FTO Supervisor shall immediately counsel the FTO * * * The decision to rotate the probationary trooper to another FTO must be fully documented and both parties informed of the reasons for the decision in order to minimize misunderstanding and possible ill feelings." Plaintiff does not allege that the Department violated any of the mandatory statements, *i.e.*, plaintiff did not allege that the Supervisor had failed to monitor the training or that the Supervisor had failed to counsel the FTO in the event of a personality conflict. With respect to the last mandatory sentence of the FTO Change Policy, because the

decision to rotate FTO's was never made, that sentence is irrelevant to this case.

By contrast, the sentence in the FTO Change Policy which is pivotal to plaintiff's argument uses discretionary language: "If necessary, the FTO Supervisor should make appropriate changes in assignment, rotating the probationary trooper to another Field Training Officer." On its face, the FTO Change Policy indicates that the decision to change the FTO is discretionary with the Supervisor. Therefore, no legitimate expectation of the benefit exists because the benefit can be denied in the absence of cause.

Begg is further distinguishable on the ground that plaintiff in the present case has not sufficiently alleged a "long standing practice" of changing FTO's whenever a personality conflict exists. Plaintiff alleges that FTO's were changed for five of his fellow probationary officers and that the custom and practice had been verbally stated to him by his Master/Sergeant during one of the academy sessions. However, plaintiff's allegations are insufficient to show long-standing custom and practice for two reasons. First, the time period between the start of FTO training for plaintiff's academy class and plaintiff's resignation from the Department was less than two months. Thus, the FTO changes relied upon by plaintiff to establish long-standing custom and practice occurred during a two-month period at the maximum. Second, plaintiff fails to indicate how many FTO change requests had been made during the time the five were granted. The fact that five FTO changes had been granted would not establish custom and practice if numerous such requests had been denied.

Plaintiff further argues that his request had not been "given any consideration * * *, resulting in a forced resignation." However, the record belies this argument. Para-

graph 12 of plaintiff's amended complaint states that State Trooper James Vandenbergh supported his request for a change. In addition, the last paragraph of the memo dated May 31, 1986, written to Master/Sergeant Hall from plaintiff thanked Hall "for being the only officer of the State Police to take the time to listen to my side of the situation and show genuine concern." Finally, plaintiff's resignation stated that he was resigning to "seek * * * other employment" and that the resignation was executed "freely and voluntarily."

Plaintiff further argues that, pursuant to *Duldulao v. St. Mary of Nazareth Hospital Center* (1985), 136 Ill. App.3d 763, 483 N.E.2d 956, *modified on other grds.*, 115 Ill.2d 482, 505 N.E.2d 314 (1987), the Department's manual created a property right in the FTO Change Policy. *Duldulao* is distinguishable from the present case on the ground that, in *Duldulao*, defendant had failed to follow mandatory procedures for discharge set forth in the employee handbook. In the present case, the relevant sentence in the FTO Change Policy is discretionary, not mandatory. Thus, even if the Department's training manual was binding upon the Department, the decision to change the FTO is still discretionary with the FTO Supervisor.

Finally, plaintiff attempts to distinguish *Sullivan v. Board of Fire and Police Commissioners of the Village of Lisle* (1981), 103 Ill. App.3d 167, 430 N.E.2d 636, the case relied upon by the trial court in reaching its decision. Plaintiff claims that *Sullivan* has no application to the present case because it is contradicted by his analysis of other cases that have established property rights based upon custom and practice. In light of the fact that plaintiff has failed to establish custom and practice, we find his distinction unpersuasive.

In *Sullivan*, plaintiff, a probationary police officer in the Village of Lisle, was discharged following a psychological examination. Plaintiff sought a declaration that his discharge was the result of the examination which, contrary to the relevant provisions of the Illinois Municipal Code, was not practical in character and did not fairly test his abilities. The *Sullivan* court held that nothing in the statute created a vested right to a certain type of exam and that the language merely established a procedure, which plaintiff had standing to assert had not been followed. However, plaintiff had not made such an assertion.

Similarly, in the present case, the FTO Change Policy creates a procedure to change FTO's in the event of a personality conflict. The FTO Change Policy mandates that the FTO Supervisor monitor the training and counsel the FTO in the event of personality conflict, but it does not mandate that FTO's be changed. As stated, plaintiff did not allege that the mandated procedures had not been followed.

Our determination that the Field Training Manual did not create a property right in plaintiff which entitled him to a change in FTO's obviates the need to address the Department's alternative argument that plaintiff divested himself of any property right when he resigned from the Department.

For the aforementioned reasons, the judgment of the circuit court of Cook County is affirmed.

Affirmed.

MANNING, P. J., and O'CONNOR, JR., J., concur.

Order of the Appellate Court of Illinois Denying Petition for Rehearing

No. 1-88-1855

FRANCIS M. GANZ,

Plaintiff-Appellant,

v.

JAMES B. ZAGEL, Director, State of Illinois, Department of State Police,

Defendant-Appellee.

ORDER

Upon consideration of the Petition for Rehearing filed by Plaintiff-Appellant, FRANCIS M. GANZ, on December 26, 1989,

IT IS HEREBY ORDERED that the Petition for Rehearing is DENIED.

/s/ Calvin C. Campbell
Justice

/s/ Blanche M. Manning
Justice

/s/ John M. O'Connor
Justice

DATED: FEB 13, 1990

Order of the Circuit Court of Cook County Granting Defendant's Motion to Strike and Dismiss Plaintiff's Complaint

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No. 87 CH 3085

GANZ,

plaintiff,

v.

ZAGEL,

defendant.

ORDER

This matter coming on defendant's motion to strike and dismiss plaintiff's complaint for declaratory judgment, the court, for the reasons stated in open court, after a full briefing and hearing on the complaint, hereby grants defendant's motion.

There is no just reason to delay the enforcement and an appeal of this order.

MAY 18, 1988
ENTER:
/s/ Albert Green
Judge

Order of the Supreme Court of Illinois Denying Leave to Appeal

ILLINOIS SUPREME COURT
JULEANN HORNYAK, CLERK
Supreme Court Building
Springfield, Ill. 62706
(217) 782-2035

June 1, 1990

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No. 69974—Francis M. Ganz, petitioner, v. James B. Zagel, etc., respondent. Leave to appeal, Appellate Court, First District.

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on June 25, 1990.